

STATE ENERGY PROGRAM NOTICE 02-2
EFFECTIVE DATE: January 17, 2002

SUBJECT: PROGRAM YEAR 2002 STATE ENERGY PROGRAM FORMULA GRANT GUIDANCE

PURPOSE: To establish grant guidance and management information for the State Energy Program formula grants for program year (PY) 2002.

SCOPE: The provisions of this guidance apply to States, Territories and the District of Columbia (hereinafter "States") applying for formula grant financial assistance under the Department of Energy's (DOE) State Energy Program (SEP). Much of the information in this guidance is summarized from the volumes of the Code of Federal Regulations (CFR) applicable to SEP, namely 10 CFR part 420 (covering the State Energy Program) and 10 CFR part 600 (the DOE Financial Assistance Rules). The CFR can be accessed at:

<http://www.access.gpo.gov/nara/cfr/>.

These regulations are the official sources for program requirements.

BACKGROUND: PY 2002 is the seventh funding year for SEP, which resulted from the 1996 consolidation of the State Energy Conservation Program (SECP) and the Institutional Conservation Program (ICP). All of the types of activities that were formerly funded under SECP and ICP are allowable activities under SEP.

PROGRAM PRIORITIES IN PY 2002:

The National Energy Plan recognizes the strategic role States play in the development and implementation of energy efficiency and renewable energy programs and technology deployment activities. SEP funding for FY 2002 represents an increase of 18% over the previous year's appropriation. This increase provides a significant opportunity for States to creatively shape their State energy plans to effectively address the challenges of the new century as identified in the SEP 21st Century Strategic Plan.

The funding increase also further emphasizes the importance of cost accountability in FY 2002. DOE will closely examine end of year uncosted balances in SEP and work with States to revisit any State Plans as necessary to insure that planned activities are implemented or revised as appropriate.

DOE will support the continued implementation of the SEP 21st Century Strategic Plan, which was developed collaboratively with SEP state and federal representatives and was published in February, 2000. We strongly encourage States to design and/or reinforce State plan activities that address the three key goals identified in that Plan. The three key goals are:

1. Maximize energy, environmental and economic (EEE) benefits through increased collaboration at the Federal, State and community level.

SEP has long recognized the value of forming diverse partnerships to implement projects and programs, and States have become skilled in bringing together people and organizations with varied interests to work together to their mutual benefit. Increased collaboration, particularly between States and energy, environmental and economic entities, has the potential for significantly multiplying the impact and benefits of SEP projects, because these three areas are so closely related.

Partnerships within State governments between the agencies and offices responsible for these areas offer opportunities for greater operational efficiency, increased customer service, expanded audiences, as well as increased energy efficiency and environmental and economic development benefits. States should also consider initiating or further developing existing similar partnerships with communities and local governments to implement smaller scale projects targeted to particular areas. SEP can serve as a focal point in the State for all of these activities.

In FY 2001, eleven SEP Special Projects Grants were awarded in a new category specifically promoting energy and environmental integration activities. Although special funding for that category is not available in FY 2002, States are encouraged to build into their SEP activities the joint planning and implementation of integrated projects at both State and community levels.

2. Increase market acceptance of energy efficiency and renewable energy technologies, practices, and products.

Market transformation is one of the main activities emphasized by SEP, and States have engaged in such activities in a variety of ways for many years. Utility deregulation, volatile energy prices, the unpredictability of energy supplies, and increased interest in renewable energy options are among the factors causing changes in the energy markets and the types of information energy consumers need. States are in a key position to affect market transformation both at the statewide and the local community levels. Many of the SEP Special Projects grants (funded by the End-use Sector Offices within DOE's Office of Energy Efficiency and Renewable Energy) awarded to States in the past six years have

been focused on technology deployment projects relating to market transformation activities. States are encouraged to continue to participate in such Special Projects activities, and also to consider expanding existing, and/or undertaking new activities of this type under their SEP formula grants.

Although the FY 2002 budget significantly reduced funds available under DOE's Building Codes Program for SEP Special Projects grants, we strongly encourage States to continue to development, implementation and training on building codes. These activities lead to significant energy, environmental and health impacts for both owners and occupants.

3. Use innovative approaches to reach market segments and meet policy goals not typically addressed by market-based solutions.

In the type of deregulated energy marketplace that is gradually emerging, it appears likely that market forces will not treat all segments of the population equally. Large industrial and commercial customers are projected to be most effectively served where deregulation is in effect, while other consumers such as small businesses, homeowners, and low-income consumers may be less effectively served. States are encouraged to implement steps to ensure the availability of energy services and energy-efficient technologies to such potentially under-served customer groups.

Heightened interest in energy emergency planning and preparedness also provides States with additional opportunities to demonstrate energy efficiency and renewable energy activities as measures to reduce vulnerability to potential supply disruptions.

Detailed guidance on some recommended optional activities that would particularly address each of these key goals was issued in the November, 2000 SEP Strategic Plan Implementation Plan. The Implementation Plan is available at:
www.eren.doe.gov/buildings/state_energy/strategic_implementation.html

The Implementation Plan also outlined a number of activities that DOE would undertake to support the States as they develop and carry out programs that will contribute to the three key goals. Two of these that will receive particular emphasis in FY 2002 are:

Regional Strategic Planning/Skill Building Workshops: In early 2002, DOE will hold Regional workshops, to support the States in implementing the goals of the Strategic Plan and to strengthen the State Energy Office network. We strongly encourage all State Energy Office Directors and State SEP Program Managers to participate.

DOE HQ and the Regional Offices have worked together to design these workshops to address the specific needs and issues facing the States in each Region, and to provide customized technical assistance to each State to identify opportunities for strengthening their energy planning processes, effectively addressing their individual energy priorities,

and working together on Regional energy issues. Further information will be forthcoming from your Regional office on the workshop planned for your Region.

SEP Program Managers Website: A website designed especially for SEP program managers is now online. Called the SEP Corner Café, the website is a private clearinghouse for exchange of information about what States are doing in energy efficiency and renewable energy, and a place to share ideas about improving these programs in the States. The website was developed in response to States' requests for such a tool during discussions on the SEP Strategic Plan. The website is available at: www.eren.doe.gov/buildings/state_energy/corner_cafe.html

LEGISLATION: SEP is authorized under PL 94-385, PL 94-163, PL 95-619, PL 94-580, PL 101-440, and PL 102-486. All grant awards made under this program must comply with applicable legislation.

REGULATIONS: SEP is governed by its program regulations (10 CFR part 420) published in the Federal Register on July 8, 1996, and amended in the Federal Registers dated May 14, 1997, August 24, 1999, and May 1, 2000, and the DOE Financial Assistance Rules (10 CFR part 600).

1.0 FUNDING

1.1 GENERAL FUNDING: PY 2002 funding for SEP, requiring DOE approval for expenditure, can come from three sources: (1) Federally appropriated funds; (2) Warner, EXXON and similar petroleum violation escrow funds; and (3) Stripper Well and other oil overcharge funds (including Texaco) which are subject to Stripper settlement rules.

1.2 FORMULA ALLOCATION: PY 2001 formula allocations consist of \$44,500,000 from SEP funds appropriated in FY 2002. The SEP rule (section 420.11(b)(4)(ii)) requires that the most recent available data be used in the population and energy consumption portions of the formula for allocating funds above the \$25.5 million base amount. Attachment 1 provides the final SEP State formula allocations for program year 2002.

(See section 420.11 for the allocation process.)

1.3 MATCH: States must contribute (in cash, in kind, or both) an amount no less than 20% of their total Federal formula award.

(See section 420.12 regarding match.)

1.4 PETROLEUM VIOLATION ESCROW (PVE) ACTIVITIES FUNDED UNDER SEP: Depending on the authority of PVE funding, new and modified PVE funded SEP initiatives must be approved in writing, prior to implementation, by the Regional Office. Stripper Well activities require review by DOE Headquarters.

2.0 APPLICATIONS FOR SEP GRANTS

2.1 APPLICATION REQUIREMENTS: States may submit applications electronically, using WinSAGA, or by hard copy and a diskette. While we are able here to list forms and cite rules, please keep in mind that the DOE Regional Offices are always available to answer specific questions and to provide guidance on application procedures.

Required forms are available in “Word” format at the following DOE Golden Field Office website:

<http://www.golden.doe.gov/businessopportunities.html>

Required application forms include:

- Standard Form 424, Application for Federal Assistance
- Federal Assistance Budget Information Form, DOE F 4600.4
- Budget Explanation Form, GO-PF20a
- Budget Explanation Form, GO-PF20a, for each non-competitively selected contractor or subgrantee
- Pre-Award Information Sheet, GO-PF19
- US DOE Assurance of Compliance, DOE 1600.5
- Certifications Regarding Lobbying; Debarment; Suspension and Other Responsibility Matters; and Drug-free Workplace Requirements; FA-Certs (*These certifications would need to be submitted with the formula grant application only if a set has not already been submitted with a prior application for this fiscal year. Please check with your Regional Office for the particulars on doing this.*)
- Disclosure of Lobbying Activities, SF-LLL
- For the Annual File part of the State Plan:
 - Narrative Activity Worksheets for each planned PY01 SEP Formula Grant Activity

States not applying via WinSAGA (i.e., those that are filing paper copies) should check with their DOE Regional Office regarding the format and forms to be used in their applications.

In addition, States submitting paper copies must provide a cover letter with the application that includes narrative outlining any amendments to activities carried over from the previous year’s plan, and any new program activities.

States applying via WinSAGA would address changes and new activities under the comment section of the budget. Here again, please check with your Regional Office if you have questions about how this should be done.

(See section 420.13 for application requirements.)

2.2 APPLICATION DUE DATE: Applications for SEP formula grants should be submitted by each State on a date established by its DOE Regional Office.

2.3 REQUESTS FOR EXTENSION: If a State determines that it cannot meet the submission date for the formula award portion of SEP, a written request must be submitted to the Regional Office 15 days prior to the application due date. The request should specify the time period needed and the reasons for the delay. An extension will be granted if reasonable justification is provided.

(See section 420.13(c).)

3.0 STATE PLAN

3.1 STATE PLAN CONTENTS: The State Plan consists of an Annual File, covering the activities that the State is intending to undertake during the year of the grant, which must be updated each year to reflect that year's activities, and the Master File, covering items that generally don't change from year to year, which would need to be updated only when a change occurs.

The Annual File section of the State Plan includes the required information for each program activity for which the State is requesting financial assistance for a given year, including budget information and milestones for each activity, and the intended scope and goals to be attained either qualitatively or quantitatively.

The Master File includes a description of the energy goals that the State wants to achieve, including, wherever practicable, an estimate of how implementing the plan will conserve energy, how the State will measure progress toward attaining the goal, and how the program activities represent a strategy to achieve these goals; an explanation of how the plan satisfies the minimum criteria for the required (mandatory) activities; and a plan for State monitoring that describes how the State conducts the administrative and programmatic oversight activities for programs implemented by other agencies within the State, contractors employed by the State, or subrecipients of financial assistance from the State.

(See section 420.13 for more specific requirements on State Plans.)

3.2 STATE PLAN ACTIVITY CODES: States shall identify program activities under the function and activity categories developed for WinSAGA, the Office of Building Technology Assistance's data base. Use of the function and activities categories will assist DOE in both tracking grant-funded activities and gathering information on State progress. DOE is often required to provide analyses, justifications and recommendations based on the information provided by the States.

The use of the function and activity categories will also assist in developing performance metrics for each activity. The function and activity categories used for SEP are:

FUNCTION: Administration

Activity: Program Support
Activity: Procurement (Mandatory)
Activity: Emergency Planning/Implementation

FUNCTION: General Education

Activity: Curriculum Development
Activity: Public Information

FUNCTION: Transportation

Activity: Ridesharing/Vanpooling
Activity: Road and Bridge Repair
Activity: Traffic Control
Activity: Telecommuting
Activity: Alternative Fuels
Activity: Clean Cities
Activity: Right/Left Turn on Red (Mandatory)
Activity: Airport Maintenance Improvement

FUNCTION: Buildings

Activity: Codes and Standards
Activity: Multi-Sector
Activity: Appliances/Equipment
Activity: Rebuild America
Activity: HERS [Home Energy Rating Systems]
Activity: FEMP [Federal Energy Management Program]
Activity: Commercial
Activity: State Government
Activity: Local Government
Activity: Residential
Activity: Lighting [Efficiency Standards] (Mandatory)
Activity: Thermal [Efficiency Standards] (Mandatory)
Activity: Industrial (Bldg. Envelope)
Activity: Institutional (Schools and Hospitals)

FUNCTION: Industrial

Activity: Industrial Process Improvement
Activity: Motors
Activity: Industries of the Future
Activity: Agriculture
Activity: Climate Wise
Activity: Industrial Technologies
Activity: Motor Challenge
Activity: Waste Management
Activity: Rural Water Systems

FUNCTION: Utilities

Activity:	Renewables
Activity:	Cogeneration
Activity:	Photovoltaics
Activity:	Energy Use Profiles and Models
Activity:	Energy Emergency Planning
Activity:	Utility Restructuring
Activity:	Process Improvement

For activities that don't seem to fit under any of these categories, please check with your DOE Regional Office to see how they should be coded.

3.3 INSTITUTIONAL CONSERVATION PROGRAM (ICP)-TYPE ACTIVITIES: States are encouraged to address the energy efficiency and renewable energy concerns of schools and hospitals. States may include program activities in their State Plans to continue ICP-type activities that were previously implemented under the separate ICP. Under SEP, States may develop their own strategies and requirements to implement ICP-type activities under the SEP rules. The ICP Rule (10 CFR part 455) does not apply to ICP-type activities funded under SEP.

3.4 MANDATORY REQUIREMENTS: The following activities and details on compliance are required in each State Plan:

- (a) establish mandatory lighting efficiency standards for public buildings;
- (b) promote carpools, vanpools; and public transportation;
- (c) incorporate energy efficiency criteria into procurement procedures;
- (d) implement mandatory thermal efficiency standards for new and renovated buildings, or in States that have delegated such matters to political subdivisions, adopt model codes for local governments to mandate such measures;
- (e) permit right turns at red traffic lights and left turns from a one-way street onto a one-way street at a red light after stopping; and
- (f) ensure effective coordination among various local, State and Federal energy efficiency, renewable energy and alternative transportation fuel programs within the State.

(See section 420.15 for more specific requirements on mandatory activities.)

3.5 OPTIONAL PROGRAM ACTIVITIES: Optional program activities may include, but are not limited to the following:

- (1) Programs of public education to promote energy conservation.
- (2) Programs to increase transportation energy efficiency, including programs to accelerate the use of alternative transportation fuels for State government vehicles, fleet vehicles, taxis, mass transit, and privately owned vehicles.
- (3) Programs for financing energy efficiency and renewable energy capital investments, projects and programs, which may include loan programs and performance contracting programs for leveraging additional public and private sector funds, and programs which allow rebates, grants, or other incentives for the purchase and installation of eligible energy efficiency and renewable

energy measures in public or nonprofit buildings owned and operated by a State, a political subdivision of a State or an agency or instrumentality of a State, or an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, including public and private non-profit schools and hospitals, and local government buildings.

(4) Programs for encouraging and for carrying out energy audits with respect to buildings and industrial facilities (including industrial processes) within the State.

(5) Programs to promote the adoption of integrated energy plans which provide for periodic evaluation of a State's energy needs, available energy resources (including greater energy efficiency) and energy costs; and utilization of adequate and reliable energy supplies, including greater energy efficiency, that meet applicable safety, environmental, and policy requirements at the lowest cost.

(6) Programs to promote energy efficiency in residential housing, such as programs for development and promotion of energy efficiency rating systems for newly constructed housing and existing housing so that consumers can compare the energy efficiency of different housing; and programs for the adoption of incentives for builders, utilities, and mortgage lenders to build, service, or finance energy efficient housing.

(7) Programs to identify unfair or deceptive acts or practices which relate to the implementation of energy efficient and renewable resource energy measures and to educate consumers concerning such acts or practices.

(8) Programs to modify patterns of energy consumption so as to reduce peak demands for energy and improve the efficiency of energy supply systems, including electricity supply systems.

(9) Programs to promote energy efficiency as an integral part of economic development planning conducted by State, local, or other governmental entities or by energy utilities.

(10) Programs to provide training and education to building designers and contractors to promote building energy efficiency.

(11) Programs for the development of building retrofit standards and regulations.

(12) Programs to provide support for feasibility studies for the utilization of renewable energy and energy efficiency resource technologies.

(13) Programs to encourage the use of renewable energy technologies.

(14) Programs to implement the Energy Technology Services Program.

(See section 420.17 for more specific requirements on optional activities.)

3.6 STATE ENERGY EMERGENCY PLANS:

The State Energy Conservation Program Improvement Act of 1990 (P.L. 101-440) required that States file, in conjunction with the SEP State Plan, an energy emergency plan detailing implementation strategies for dealing with energy emergencies. For States that may want to update these plans, EERE and DOE's Office of Emergency Management have developed model guidelines for incorporating energy efficiency and renewable energy technologies into a State's energy emergency plan. Those guidelines are included as an attachment to this Program Notice.

3.7 EXPENDITURE PROHIBITIONS AND LIMITATIONS: States are prohibited from using SEP financial assistance:

- (a) for construction, such as construction of mass transit systems and exclusive bus lanes, or for the construction or repair of buildings or structures;
- (b) to purchase land, a building or structure or any interest therein;
- (c) to subsidize fares for public transportation;
- (d) to subsidize utility rate demonstrations or State tax credits for energy conservation or renewable energy measures; or
- (e) to conduct or purchase equipment to conduct research, development or demonstration of energy efficiency or renewable energy techniques and technologies not commercially available.

No more than 20 percent of the financial assistance awarded to the State for this program shall be used to purchase office supplies, library materials, or other equipment whose purchase is not otherwise prohibited.

Demonstrations of commercially available energy efficiency or renewable energy techniques and technologies are permitted and are not subject to the construction prohibition or the 20% on equipment, and direct purchase limitations.

A State may use regular or revolving loan mechanisms to fund SEP services which are consistent with the SEP rule and which are included in the approved State plan. Loan repayments and interest on loan funds may be used only for activities which are consistent with the rule and are included in the State's approved plan.

A State may use funds for the purchase and installation of equipment and materials for energy efficiency measures and renewable energy measures, subject to the following:

- use must be included in State's approved plan (and if PVE funds are used, the use must be consistent with any judicial or administrative terms and conditions imposed upon State use of such funds).
- such use is limited to no more than 50% of all funds allocated by the State to SEP in any given year, regardless of source, except that this limitation shall not include regular and revolving loan programs funded with PVE funds. **States may request a waiver of the 50% limit from DOE for good cause, and should check with their DOE Regional Office about the process for doing so, if they are considering this.** For regular and revolving loan funds, loan documents shall ensure repayment of principal and interest within a reasonable period of time, and shall not include provisions for loan forgiveness.

Funds may be used to supplement and no funds may be used to supplant weatherization activities under the Weatherization Assistance Program for Low-Income Persons.

(See section 420.18 for more detailed expenditure prohibitions and limitations.)

4.0 REPORTING: States are required to submit the following three reports quarterly:

- Financial Status Report, Standard Form 269
- Federal Cash Transactions Report, Standard Form 272 (not required if a State is submitting its cash transaction reports to the Department of Health and Human Services (HHS))
- Program Status Report

These forms are also available in “Word” format at the following DOE Golden Field Office website:

<http://www.golden.doe.gov/businessopportunities.html>

With all aspects of the SEP formula grant application process, States are encouraged to consult with their DOE Regional Office if they have questions or need additional information, or copies of forms, etc.

Gail McKinley, Director
Office of Building Technology Assistance
Energy Efficiency and Renewable Energy

Attachments: State Formula Allocations
Model Guidelines for State Emergency Plans